

**Maine Revised Statutes**  
**Title 36: TAXATION**  
**Chapter 805: COMPUTATION OF TAXABLE**  
**INCOME OF RESIDENT INDIVIDUALS**

**§5122. MODIFICATIONS**

**1. Additions.** Federal adjusted gross income shall be increased by:

A. Interest or dividends on obligations or securities of any state other than this State, or of a political subdivision or authority of any state other than this State, to the extent that interest or those dividends are not included in the recipient's federal adjusted gross income; [2003, c. 390, §27 (AMD).]

B. Interest or dividends on obligations of any authority, commission, instrumentality, territory or possession of the United States which by the laws of the United States are exempt from federal income tax but not from state income tax; [1981, c. 706, §33 (AMD).]

C. [1987, c. 504, §9 (RP).]

D. For income tax years beginning before January 1, 2002, the amount of any net operating loss in the taxable year that has been carried back to previous years pursuant to the Code, Section 172; [2003, c. 390, §28 (AMD); 2003, c. 390, §53 (AFF).]

E. The amount of any deduction claimed for the taxable year under the United States Internal Revenue Code, Section 172 which has previously been used to offset the modifications provided by this subsection; [1987, c. 739, §§44, 48 (AMD).]

F. [2001, c. 583, §15 (RP).]

G. Pick-up contributions, as defined in Title 5, section 17001, subsection 28-A, paid by the taxpayer's employer on the taxpayer's behalf to the Maine Public Employees Retirement System; [2011, c. 240, §30 (AMD).]

H. The absolute value of the amount of any net operating loss arising from tax years beginning on or after January 1, 1989, but before January 1, 1993, that arises from an S corporation with total assets for the year of at least \$1,000,000 and the absolute value of the amount of any net operating loss arising from tax years beginning on or after January 1, 2002 that, pursuant to the United States Internal Revenue Code, Section 172, are being carried back for federal income tax purposes to the taxable year by the taxpayer; [2001, c. 559, Pt. J, §1 (AMD).]

I. [1995, c. 641, §7 (AFF); 1995, c. 641, §3 (RP).]

J. The amount claimed as a deduction in determining federal adjusted gross income that is included in the investment credit base for the high-technology investment tax credit; [2003, c. 390, §29 (AMD).]

K. For income tax years beginning on or after January 1, 1997, all items of loss, deduction and other expense of a financial institution subject to the tax imposed by section 5206, to the extent that those items are passed through to the taxpayer for federal income tax purposes, including, if the financial institution is an S corporation, the taxpayer's pro rata share and, if the financial institution is a partnership or limited liability company, the taxpayer's distributive share. An addition may not be made under this paragraph for any losses recognized on the disposition by a taxpayer of an ownership interest in a financial institution; [2001, c. 559, Pt. GG, §9 (AMD); 2001, c. 559, Pt. GG, §26 (AFF).]

L. [1999, c. 731, Pt. X, §§4, 5 (AFF); 1999, c. 731, Pt. X, §3 (RP).]

M. The absolute value of the amount of any net operating loss arising from a tax year beginning or ending in 2001 that the taxpayer, pursuant to Section 102 of the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147, carries back more than 2 years to the taxable year for federal income tax purposes; [2001, c. 700, §3 (AMD).]

N. With respect to property placed in service during the taxable year, an amount equal to the net increase in depreciation or expensing attributable to:

(1) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 30% bonus depreciation deduction claimed by the taxpayer pursuant to Section 101 of the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147 with respect to property placed in service during the taxable year;

(2) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 50% bonus depreciation deduction claimed by the taxpayer pursuant to Section 201 of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, Public Law 108-27 with respect to property placed in service during the taxable year; and

(3) For taxable years beginning on or after January 1, 2003 but prior to January 1, 2011, the increase in aggregate cost under Section 179 of the Code arising from amendments to the Code applicable to tax years beginning on or after January 1, 2003; [2011, c. 380, Pt. O, §1 (AMD).]

O. [2009, c. 434, §64 (RP).]

P. [2009, c. 434, §65 (RP).]

Q. For tax years beginning on or after January 1, 2003, the amount of deduction claimed pursuant to the Code, Section 222 for qualified tuition and related expenses; [2003, c. 20, Pt. II, §2 (NEW).]

R. [2003, c. 451, Pt. KK, §1 (RP).]

S. For tax years beginning in 2003, 2004 and 2005, the amount received from the National Health Service Corps Scholarship Program and the Armed Forces Health Professions Scholarship and Financial Assistance program to the extent excluded from federal gross income in accordance with the Code, Section 117; [2003, c. 2, §117 (COR).]

T. [2003, c. 688, Pt. A, §41 (RP).]

U. [2003, c. 688, Pt. A, §41 (RP).]

V. For tax years beginning on or after January 1, 2003 and before January 1, 2006, the amount claimed as a federal income adjustment for student loan interest under the Code, Section 62 (a)(17), but only for interest paid after 60 months from the start of the loan repayment period; [2007, c. 437, §15 (RPR).]

W. [2005, c. 519, Pt. NNN, §3 (AFF); 2005, c. 519, Pt. NNN, §2 (RP).]

X. An amount equal to the taxpayer's federal deduction relating to income attributable to domestic production activities claimed in accordance with Section 102 of the federal American Jobs Creation Act of 2004, Public Law 108-357; [2007, c. 539, Pt. CCC, §2 (AMD).]

Y. Any amount of allowable deduction claimed for federal purposes in accordance with the election under Section 642(g) of the Code that is also used to determine the taxable estate for purposes of calculating the Maine estate tax under chapter 575 or 577; [2013, c. 331, Pt. A, §4 (AMD); 2013, c. 331, Pt. A, §5 (AFF).]

Z. For income tax years beginning on or after January 1, 2008, the amount of any qualified state and local tax benefit and any qualified payment excluded from gross income pursuant to the Code, Section 139B; [2009, c. 496, §21 (RPR).]

AA. For taxable years beginning on or after January 1, 2008 but before January 1, 2011, an amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) arising from amendments to the Code applicable to taxable years beginning on or after January 1, 2008; [2011, c. 380, Pt. O, §2 (AMD).]

BB. The amount of unemployment compensation received to the extent excluded from federal gross income in accordance with the Code, Section 85(c); [2009, c. 213, Pt. BBBB, §4 (NEW); 2009, c. 213, Pt. BBBB, §17 (AFF).]

CC. For tax years beginning on or after January 1, 2009 but before January 1, 2011, an amount equal to the gross income during the taxable year from the discharge of indebtedness deferred under the Code, Section 108(i); [2011, c. 90, Pt. H, §1 (AMD); 2011, c. 90, Pt. H, §8 (AFF).]

DD. For any taxable year beginning in 2009, 2010 or 2011, an amount equal to the absolute value of any net operating loss carry-forward claimed for purposes of the federal income tax; [2011, c. 380, Pt. O, §3 (AMD).]

EE. The amount claimed as a deduction in determining federal adjusted gross income that is included in the credit for wellness programs under section 5219-FF; [2011, c. 644, §13 (AMD).]

FF. For taxable years beginning in 2011 and 2012:

(1) An amount equal to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-GG; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-GG; [2013, c. 368, Pt. TT, §2 (AMD).]

GG. The amount claimed as a deduction in determining federal adjusted gross income that is used to calculate the credit for Maine fishery infrastructure investment under section 5216-D; and [2013, c. 368, Pt. TT, §3 (AMD).]

HH. For taxable years beginning in 2013:

(1) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-JJ for that taxable year; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-JJ. [2013, c. 1, §52 (COR).]

[2013, c. 1, §52 (COR).]

**2. Subtractions.** Federal adjusted gross income shall be reduced by:

A. Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent that interest or those dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States. The amount subtracted must be decreased by any expenses incurred in the production of the interest or dividend income to the extent that those expenses, including amortizable bond premiums, are deducted in determining federal adjusted gross income; [2003, c. 390, §30 (AMD).]

B. An amount equal to the reduction in salaries and wages expense for federal income tax purposes associated with the taxpayer's federal work opportunity credit as determined under the Code, Section 51 or empowerment zone employment credit as determined under the Code, Section 1396; [2005, c. 218, §52 (AMD).]

C. Social security benefits and railroad retirement benefits paid by the United States, to the extent included in federal adjusted gross income; [1989, c. 502, Pt. A, §136 (RPR); 1989, c. 556, Pt. B, §7 (RPR).]

D. [2001, c. 177, §2 (RP).]

E. Pick-up contributions paid to the taxpayer by the Maine Public Employees Retirement System or distributed as the result of a rollover, whether or not included in federal adjusted gross income, that have been previously taxed under this Part; [1999, c. 414, §40 (AMD); 1999, c. 414, §57 (AFF); 2007, c. 58, §3 (REV).]

F. An amount equal to income taxes imposed by this State or any other taxing jurisdiction on the taxpayer that are included in the taxpayer's federal adjusted gross income; [1989, c. 880, Pt. G, §3 (RPR).]

G. For income tax years commencing on or after January 1, 1989 and before January 1, 2000, an amount equal to the total premiums spent for insurance policies for long-term care that have been certified by the Superintendent of Insurance as complying with Title 24-A, chapter 68; [1999, c. 521, Pt. C, §3 (AMD); 1999, c. 521, Pt. C, §9 (AFF).]

H. For each taxable year subsequent to the year of the loss, an amount equal to the absolute value of the net operating loss arising from tax years beginning on or after January 1, 1989, but before January 1, 1993, for which federal adjusted gross income was increased in accordance with subsection 1, paragraph H, and the absolute value of the amount of any net operating loss arising from tax years beginning on or after January 1, 2002, for which federal adjusted gross income was increased in accordance with subsection 1, paragraph H and that pursuant to the Code, Section 172 was carried back for federal income tax purposes, less the absolute value of loss used in the taxable year of loss to offset any addition modification required by subsection 1, but only to the extent that:

- (1) Maine taxable income is not reduced below zero;
- (2) The taxable year is within the allowable federal period for carry-over;
- (3) The amount has not been previously used as a modification pursuant to this subsection; and
- (4) The modification under this paragraph is not claimed for any tax year beginning in 2009, 2010 or 2011. The amount not deducted as the result of the restriction with respect to tax years beginning in 2009, 2010 or 2011 may be deducted in any tax year beginning after December 31, 2011, but only to the extent that the requirements of subparagraphs (1) and (3) are met and the taxable year is within the allowable federal period for carry-over plus the number of years that the net operating loss carry-over adjustment was not deducted as a result of the restriction with respect to tax years beginning in 2009, 2010 or 2011; [2009, c. 213, Pt. ZZZ, §2 (AMD).]

I. For income tax years beginning on or after January 1, 1991, an amount equal to the amount by which federal taxable income was reduced because of vessel earnings from fishing operations that were contributed to a capital construction fund; [1997, c. 2, §58 (COR).]

J. To the extent included in federal adjusted gross income, any amount constituting a qualified distribution from an account established pursuant to Title 20-A, chapter 417-E and used for paying higher education expenses of the designated beneficiary of that account; [2003, c. 390, §33 (AMD).]

J. (REALLOCATED TO T. 36, §5122, sub-§2, ¶K) [1997, c. 2, §60 (RAL); 1997, c. 746, §6 (NEW); 1997, c. 746, §24 (AFF).]

K. (REALLOCATED FROM T. 36, §5122, sub-§2, ¶J) For income tax years beginning on or after January 1, 1997, all items of income, gain, interest, dividends, royalties and other income of a financial institution subject to the tax imposed by section 5206, to the extent that those items are passed through to the taxpayer for federal income tax purposes, including, if the financial institution is an S corporation, the taxpayer's pro rata share and, if the financial institution is a partnership or limited liability company, the taxpayer's distributive share. A subtraction may not be made under this paragraph for:

- (1) Income of the taxpayer earned on interest-bearing or similar accounts of the taxpayer at a financial institution as a customer of that financial institution;
- (2) Any dividends or other distributions with respect to a taxpayer's ownership interest in a financial institution; and
- (3) Any gain recognized on the disposition by the taxpayer of an ownership interest in a financial institution; [1999, c. 708, §34 (AMD); 1999, c. 731, Pt. S, §1 (AMD); 1999, c. 731, Pt. S, §4 (AFF).]

L. For income tax years beginning on or after January 1, 2000 and before January 1, 2004, an amount equal to the total premiums spent for qualified long-term care insurance contracts as defined in the Code, Section 7702B(b), as long as the amount subtracted is reduced by the long-term care premiums claimed as an itemized deduction pursuant to section 5125. For income tax years beginning on or after January 1, 2004, an amount equal to the total premiums spent for qualified long-term care insurance contracts as defined in the Code, Section 7702B(b), as long as the amount subtracted is reduced by any amount claimed as a deduction for federal income tax purposes in accordance with the Code, Section 162(l) and by the long-term care premiums claimed as an itemized deduction pursuant to section 5125; [2003, c. 705, §11 (AMD); 2003, c. 705, §14 (AFF).]

M. For each individual who is a primary recipient of pension benefits under an employee retirement plan, an amount that is the lesser of:

- (1) Six thousand dollars reduced by the total amount of the individual's social security benefits and railroad retirement benefits paid by the United States, but not less than \$0. The reduction does not apply to benefits paid under a military retirement plan; or
- (2) The aggregate of pension benefits under employee retirement plans included in the individual's federal adjusted gross income.

For purposes of this paragraph, the following terms have the following meanings. "Primary recipient" means the individual upon whose earnings the employee retirement plan benefits are based or the surviving spouse of that individual. "Pension benefits" means employee retirement plan benefits reported as pension or annuity income for federal income tax purposes. "Employee retirement plan" means a state, federal or military retirement plan or any other retirement benefit plan established and maintained by an employer for the benefit of its employees under the Code, Section 401(a), Section 403 or Section 457(b), except that distributions made pursuant to a Section 457(b) plan are not eligible for the deduction provided by this paragraph if they are made prior to age 55 and are not part of a series of substantially equal periodic payments made for the life of the primary recipient or the joint lives of the primary recipient and that recipient's designated beneficiary. "Employee retirement plan" does not include an individual retirement account under Section 408 of the Code, a Roth IRA under Section 408A of the Code, a rollover individual retirement account, a simplified employee pension under Section 408(k) of the Code or an ineligible deferred compensation plan under Section 457(f) of the Code. Pension benefits under an employee retirement plan do not include distributions that are subject to the tax imposed by the Code, Section 72(t). "Military retirement plan" means benefits received as a result of service in the active or reserve components of the Army, Navy, Air Force, Marines or Coast Guard.

This paragraph does not apply to tax years beginning on or after January 1, 2014; [2011, c. 657, Pt. R, §1 (AMD).]

M-1. For tax years beginning on or after January 1, 2014, for each individual who is a primary recipient of retirement plan benefits under an employee retirement plan or an individual retirement account, an amount that is the lesser of the aggregate of retirement plan benefits under employee retirement plans

or individual retirement accounts included in the individual's federal adjusted gross income and the pension deduction amount reduced by the total amount of the individual's social security benefits and railroad retirement benefits paid by the United States, but not less than \$0. The social security benefits and railroad retirement benefits reduction does not apply to benefits paid under a military retirement plan.

For purposes of this paragraph, the following terms have the following meanings.

- (1) "Employee retirement plan" means a state, federal or military retirement plan or any other retirement benefit plan established and maintained by an employer for the benefit of its employees under the Code, Section 401(a), Section 403 or Section 457(b), except that distributions made pursuant to a Section 457(b) plan are not eligible for the deduction provided by this paragraph if they are made prior to age 55 and are not part of a series of substantially equal periodic payments made for the life of the primary recipient or the joint lives of the primary recipient and that recipient's designated beneficiary.
- (2) "Individual retirement account" means an individual retirement account under Section 408 of the Code, a Roth IRA under Section 408A of the Code, a simplified employee pension under Section 408(k) of the Code or a simple retirement account for employees under Section 408(p) of the Code.
- (3) "Military retirement plan" means retirement plan benefits received as a result of service in the active or reserve components of the Army, Navy, Air Force, Marines or Coast Guard.
- (4) "Pension deduction amount" means \$10,000 for tax years beginning on or after January 1, 2014.
- (5) "Primary recipient" means the individual upon whose earnings or contributions the retirement plan benefits are based or the surviving spouse of that individual.
- (6) "Retirement plan benefits" means employee retirement plan benefits, except pick-up contributions for which a subtraction is allowed under paragraph E, reported as pension or annuity income for federal income tax purposes and individual retirement account benefits reported as individual retirement account distributions for federal income tax purposes. "Retirement plan benefits" does not include distributions that are subject to the tax imposed by the Code, Section 72(t); [ 2013, c. 546, §13 (AMD) . ]

N. Interest or dividends on obligations or securities of this State and its political subdivisions and authorities to the extent included in federal adjusted gross income; [ 2001, c. 358, Pt. CC, §3 (NEW) . ]

O. A Holocaust victim settlement payment received by a Holocaust victim to the extent included in federal adjusted gross income. This paragraph applies only to a taxpayer who is the first recipient of a Holocaust victim settlement payment. For purposes of this paragraph, the following terms have the following meanings.

- (1) "Holocaust victim" means an individual who died, lost property or was a victim of persecution as a result of discriminatory laws, policies or actions targeted against discrete groups of individuals based on race, religion, ethnicity, sexual orientation or national origin, whether or not the individual was actually a member of any of those groups, or because the individual assisted or allegedly assisted any of those groups, between January 1, 1929 and December 31, 1945, in Nazi Germany or in any European country allied with or occupied by Nazi Germany. "Holocaust victim" includes the spouse or descendant of such an individual.
- (2) "Holocaust victim settlement payment" means a payment received:
  - (a) As a result of the taxpayer's status as a Holocaust victim;
  - (b) As a result of the settlement of any other Holocaust claim, including an insurance claim, a claim relating to looted art, a claim relating to looted financial assets, a claim relating to slave labor wages or a class action lawsuit claim against Swiss banks; or
  - (c) As interest on any payment under division (a) or (b) accumulated or accrued through the date of payment; [ 2001, c. 679, §3 (AMD); 2001, c. 679, §6 (AFF) . ]

P. An amount equal to the absolute value of any net operating loss arising in a tax year beginning or ending in 2001 for which federal adjusted gross income was increased in accordance with subsection 1, paragraph M and that, pursuant to Section 102 of the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147, was carried back more than 2 years to the taxable year for federal income tax purposes, but only to the extent that:

- (1) Maine taxable income is not reduced below zero;
- (2) The taxable year is either within 2 years prior to the year in which the loss arose or within the allowable federal period for carry-over of net operating losses;
- (3) The amount has not been previously used as a modification pursuant to this subsection; and
- (4) The modification under this paragraph is not claimed for any tax year beginning in 2009, 2010 or 2011. The amount not deducted as the result of the restriction with respect to tax years beginning in 2009, 2010 or 2011 may be deducted in any tax year beginning after December 31, 2011, but only to the extent that the requirements of subparagraphs (1) and (3) are met and the taxable year is within the allowable federal period for carry-over plus the number of years that the net operating loss carry-over adjustment was not deducted as a result of the restriction with respect to tax years beginning in 2009, 2010 or 2011; [2009, c. 213, Pt. ZZZ, §3 (AMD).]

P. (REALLOCATED TO T. 36, §5122, sub-§2, ¶T) [2001, c. 679, §4 (NEW); 2001, c. 679, §6 (AFF); 2003, c. 1, §37 (RAL).]

Q. A fraction of any amount previously added back by the taxpayer to federal adjusted gross income pursuant to subsection 1, paragraph N.

- (1) With respect to property first placed in service during taxable years beginning in 2002, the adjustment under this paragraph is available for each year during the recovery period, beginning 2 years after the beginning of the taxable year during which the property was first placed in service. The fraction is equal to the amount added back under subsection 1, paragraph N with respect to the property, divided by the number of years in the recovery period minus 2.
- (2) With respect to all other property, for the taxable year immediately following the taxable year during which the property was first placed in service, the fraction allowed by this paragraph is equal to 5% of the amount added back under subsection 1, paragraph N with respect to the property. For each subsequent taxable year during the recovery period, the fraction is equal to 95% of the amount added back under subsection 1, paragraph N with respect to the property, divided by the number of years in the recovery period minus 2.

In the case of property expensed pursuant to Section 179 of the Code, the term "recovery period" means the recovery period that would have been applicable to the property had Section 179 not been applied; [2005, c. 416, §1 (AMD).]

R. [2003, c. 20, Pt. EE, §2 (RP).]

S. [2003, c. 20, Pt. EE, §2 (RP).]

T. (REALLOCATED FROM T. 36, §5122, sub-§2, ¶P) For income tax years beginning on or after January 1, 2002 and before January 1, 2004, an amount equal to the total premiums spent for long-term care insurance policies certified under Title 24-A, section 5075-A as long as the amount subtracted is reduced by the long-term care premiums claimed as an itemized deduction pursuant to section 5125.

For income tax years beginning on or after January 1, 2004, an amount equal to the total premiums spent for qualified long-term care insurance contracts certified under Title 24-A, section 5075-A, as long as the amount subtracted is reduced by any amount claimed as a deduction for federal income tax purposes in accordance with the Code, Section 162(l) and by the long-term care premiums claimed as an itemized deduction pursuant to section 5125; [2005, c. 519, Pt. LLL, §1 (AMD); 2005, c. 622, §26 (AMD).]

U. For income tax years beginning on or after January 1, 2015, the gain attributable to the sale of sustainably managed, eligible timberlands as calculated in this paragraph.

(1) As used in this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

- (a) "Commercial harvesting" or "commercially harvested" means the harvesting of forest products that have commercial value.
- (b) "Eligible timberlands" means land of at least 10 acres located in the State and used primarily for the growth of trees to be commercially harvested. Land that would otherwise be included within this definition may not be excluded because of:
  - (i) Use of the land for multiple public recreation activities;
  - (ii) Statutory or governmental restrictions that prevent commercial harvesting of trees or require a primary use of the land other than commercial harvesting;
  - (iii) Deed restrictions, restrictive covenants or organizational charters that prevent commercial harvesting of trees or require a primary use of land other than commercial harvesting and that were effective prior to January 1, 1982; or
  - (iv) Past or present multiple use for mineral exploration.
- (c) "Forest products that have commercial value" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material or cones or other seed products.
- (d) "Sustainably managed" means:
  - (i) A forest management and harvest plan, as defined in section 573, subsection 3-A, has been prepared for the eligible timberlands and has been in effect for the entire time period used to compute the amount of the subtraction modification under this paragraph; and
  - (ii) The taxpayer has received a written statement from a licensed forester certifying that, as of the time of the sale, the eligible timberlands have been managed in accordance with the plan under subdivision (i) during that period.

(2) To the extent they are included in the taxpayer's federal adjusted gross income, the following amounts must be subtracted from federal adjusted gross income:

- (a) For eligible timberlands held by the taxpayer for at least a 10-year period beginning on or after January 1, 2005 but less than an 11-year period beginning on or after January 1, 2005, 1/15 of the gain recognized on the sale of the eligible timberlands;
- (b) For eligible timberlands held by the taxpayer for at least an 11-year period beginning on or after January 1, 2005 but less than a 12-year period beginning on or after January 1, 2005, 2/15 of the gain recognized on the sale of the eligible timberlands;
- (c) For eligible timberlands held by the taxpayer for at least a 12-year period beginning on or after January 1, 2005 but less than a 13-year period beginning on or after January 1, 2005, 1/5 of the gain recognized on the sale of the eligible timberlands;
- (d) For eligible timberlands held by the taxpayer for at least a 13-year period beginning on or after January 1, 2005 but less than a 14-year period beginning on or after January 1, 2005, 4/15 of the gain recognized on the sale of the eligible timberlands;
- (e) For eligible timberlands held by the taxpayer for at least a 14-year period beginning on or after January 1, 2005 but less than a 15-year period beginning on or after January 1, 2005, 1/3 of the gain recognized on the sale of the eligible timberlands;
- (f) For eligible timberlands held by the taxpayer for at least a 15-year period beginning on or after January 1, 2005 but less than a 16-year period beginning on or after January 1, 2005, 2/5 of the gain recognized on the sale of the eligible timberlands;



- (g) For eligible timberlands held by the taxpayer for at least a 16-year period beginning on or after January 1, 2005 but less than a 17-year period beginning on or after January 1, 2005, 7/15 of the gain recognized on the sale of the eligible timberlands;
- (h) For eligible timberlands held by the taxpayer for at least a 17-year period beginning on or after January 1, 2005 but less than an 18-year period beginning on or after January 1, 2005, 8/15 of the gain recognized on the sale of the eligible timberlands;
- (i) For eligible timberlands held by the taxpayer for at least an 18-year period beginning on or after January 1, 2005 but less than a 19-year period beginning on or after January 1, 2005, 3/5 of the gain recognized on the sale of the eligible timberlands;
- (j) For eligible timberlands held by the taxpayer for at least a 19-year period beginning on or after January 1, 2005 but less than a 20-year period beginning on or after January 1, 2005, 2/3 of the gain recognized on the sale of the eligible timberlands;
- (k) For eligible timberlands held by the taxpayer for at least a 20-year period beginning on or after January 1, 2005 but less than a 21-year period beginning on or after January 1, 2005, 11/15 of the gain recognized on the sale of the eligible timberlands;
- (l) For eligible timberlands held by the taxpayer for at least a 21-year period beginning on or after January 1, 2005 but less than a 22-year period beginning on or after January 1, 2005, 4/5 of the gain recognized on the sale of the eligible timberlands;
- (m) For eligible timberlands held by the taxpayer for at least a 22-year period beginning on or after January 1, 2005 but less than a 23-year period beginning on or after January 1, 2005, 13/15 of the gain recognized on the sale of the eligible timberlands;
- (n) For eligible timberlands held by the taxpayer for at least a 23-year period beginning on or after January 1, 2005 but less than a 24-year period beginning on or after January 1, 2005, 14/15 of the gain recognized on the sale of the eligible timberlands; or
- (o) For eligible timberlands held by the taxpayer for at least a 24-year period beginning on or after January 1, 2005, all of the gain recognized on the sale of the eligible timberlands.

(3) Taxpayers claiming this credit must attach a sworn statement from a forester licensed pursuant to Title 32, chapter 76 that the timberlands for which the credit is claimed have been managed sustainably. For the purposes of this subparagraph, "sustainably" means that the timberlands for which the credit is claimed have been managed to protect soil productivity and to maintain or improve stand productivity and timber quality; known occurrences of threatened or endangered species and rare or exemplary natural communities; significant wildlife habitat and essential wildlife habitat; and water quality, wetlands and riparian zones.

Upon request of the State Tax Assessor, the Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry may provide assistance in determining whether timberlands for which the credit is claimed have been managed sustainably. When assistance is requested under this subparagraph, the director or the director's designee may enter and examine the timberlands for the purpose of determining whether the timberlands have been managed sustainably.

In the case of timberlands owned by an entity that is treated as a pass-through entity for income tax purposes, the land must be treated as eligible timberland if ownership and use of the land by the pass-through entity satisfies the requirements of this paragraph. If the owner of the eligible timberlands is an S corporation, the taxpayer must subtract the owner's pro rata share of the gain. If the owner of the timberlands is a partnership or limited liability company taxed as a partnership, the taxpayer must subtract the taxpayer's distributive share of the gain, subject to the percentage limitations provided in this paragraph.

This modification may not reduce Maine taxable income to less than zero. To the extent this modification results in Maine taxable income that is less than zero for the taxable year, the excess negative modification amount may be carried forward and applied as a subtraction modification for up

to 10 taxable years. The entire amount of the excess negative modification must be carried to the earliest of the taxable years to which, by reason of this subsection, the negative modification may be carried and then to each of the other taxable years to the extent the unused negative modification is not used for a prior taxable year. Earlier carry-forward modifications must be used before newer modifications generated in later years; [2005, c. 622, §27 (AMD); 2005, c. 644, §5 (AMD); 2011, c. 657, Pt. W, §§5, 7 (REV); 2013, c. 405, Pt. A, §23 (REV).]

V. The taxpayer's pro rata share of an amount that was previously added back to federal taxable income pursuant to section 5200-A, subsection 1, paragraph H by an S corporation of which the taxpayer is a shareholder and by which, absent the S corporation election, the corporation could have reduced its federal taxable income for the taxable year pursuant to section 5200-A, subsection 2, paragraph H, except that the modification under this paragraph may not be claimed for any tax year beginning in 2009, 2010 or 2011. The amount not deducted as the result of the restriction with respect to tax years beginning in 2009, 2010 or 2011 may be deducted in any tax year beginning after December 31, 2011, but only to the extent that the requirements of section 5200-A, subsection 2, paragraph H, subparagraphs (1) and (3) are met and the taxable year is within the allowable federal period for carry-over plus the number of years that the net operating loss carry-over adjustment was not deducted as a result of the restriction with respect to tax years beginning in 2009, 2010 or 2011; [2009, c. 213, Pt. ZZZ, §4 (AMD).]

W. The taxpayer's pro rata share of an amount that was previously added back to federal taxable income pursuant to section 5200-A, subsection 1, paragraph M by an S corporation of which the taxpayer is a shareholder and by which, absent the S corporation election, the corporation could have reduced its federal taxable income for the taxable year pursuant to section 5200-A, subsection 2, paragraph L; [2007, c. 466, Pt. A, §70 (AFF); 2007, c. 466, Pt. A, §66 (RPR).]

X. The taxpayer's pro rata share of an amount that was previously added back to federal taxable income pursuant to section 5200-A, subsection 1, paragraph N; section 5200-A, subsection 1, paragraph T; section 5200-A, subsection 1, paragraph Y, subparagraph (2); or section 5200-A, subsection 1, paragraph AA, subparagraph (2) by a corporation of which the taxpayer is a shareholder and by which, absent an S corporation election, the corporation could have reduced its federal taxable income for the taxable year pursuant to section 5200-A, subsection 2, paragraph M, R, V or Y; [2013, c. 546, §14 (AMD).]

Y. The portion of contributions to a qualified tuition program established under Section 529 of the Code up to \$250 per designated beneficiary. This deduction may not be claimed on returns when federal adjusted gross income exceeds \$100,000 for returns with a filing status of single or married filing separately or \$200,000 for returns with a filing status of married joint or head of household; [2007, c. 539, Pt. CCC, §6 (AMD); 2007, c. 689, §1 (AMD); 2007, c. 689, §4 (AFF).]

Z. For income tax years beginning on or after January 1, 2006, to the extent included in federal adjusted gross income and not otherwise removed from Maine taxable income, an amount equal to the total of capital gains and ordinary income resulting from depreciation recapture determined in accordance with the Code, Sections 1245 and 1250 that is realized upon the sale of property certified as multifamily affordable housing property by the Maine State Housing Authority in accordance with Title 30-A, section 4722, subsection 1, paragraph AA; [2007, c. 2, §22 (COR).]

AA. For taxable years beginning on or after January 1, 2009, an amount equal to the net increase in the depreciation deductions allowable under Sections 167 and 168 of the Code that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service on or after January 1, 2008 for which an addition was required under subsection 1, paragraph AA in a prior year.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph AA and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed for property under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph AA for the same property; [ 2009 , c . 2 , §109 (COR) . ]

*(Paragraph AA as enacted by PL 2007, c. 689, §3 is REALLOCATED TO TITLE 36, SECTION 5122, SUBSECTION 2, PARAGRAPH BB)*

BB. (REALLOCATED FROM T. 36, §5122, sub-§2, ¶AA) The amount of pension benefits to the extent included in federal adjusted gross income under a military retirement plan as defined in paragraph M that exceed the amount of military retirement plan pension benefits deducted under paragraph M and that are received by a person who practices as a licensed dentist in this State for an average of at least 20 hours per week during the tax year and who accepts patients who receive benefits under the MaineCare program administered under Title 22, chapter 855; [ 2011 , c . 240 , §31 (AMD) . ]

CC. An amount equal to the value of any prior year addition modification under subsection 1, paragraph DD, but only to the extent that:

- (1) Maine taxable income is not reduced below zero;
- (2) The taxable year is within the allowable federal period for carry-over plus the number of years that the net operating loss carry-over adjustment was not deducted as a result of the restriction with respect to tax years beginning in 2009, 2010 or 2011;
- (3) The amount has not been previously used as a modification pursuant to this subsection; and
- (4) The modification under this paragraph is not claimed for any tax year beginning in 2009, 2010 or 2011; [ 2009 , c . 1 , §26 (COR) . ]

*(Paragraph CC as enacted by PL 2009, c. 213, Pt. BBBB, §8 and affected by §17 is REALLOCATED TO TITLE 36, SECTION 5122, SUBSECTION 2, PARAGRAPH DD)*

*(Paragraph CC as enacted by PL 2009, c. 434, §69 and affected by §84 is REALLOCATED TO TITLE 36, SECTION 5122, SUBSECTION 2, PARAGRAPH EE)*

DD. (REALLOCATED FROM T. 36, §5122, sub-§2, ¶CC) An amount equal to the gross income from the discharge of indebtedness previously deferred under the Code, Section 108(i) and included in federal adjusted gross income. The total subtraction for all years under this paragraph may not exceed the amount of the addition modification under subsection 1, paragraph CC for the same indebtedness; [ 2009 , c . 2 , §110 (COR) . ]

EE. (REALLOCATED FROM T. 36, §5122, sub-§2, ¶CC) To the extent included in federal adjusted gross income, an amount constituting benefits received under a municipal property tax assistance program established pursuant to section 6232, subsection 1-A; [ 2009 , c . 2 , §111 (COR) . ]

FF. To the extent included in federal adjusted gross income, student loan payments made by the taxpayer's employer directly to a lender on behalf of a qualified employee in accordance with section 5217-D, whether or not the employer claims, or could claim, the credit provided by section 5217-D, subsection 5; [ 2013 , c . 525 , §14 (AMD) . ]

*(Paragraph FF as enacted by PL 2009, c. 625, §12 and affected by §15 is REALLOCATED TO TITLE 36, SECTION 5122, SUBSECTION 2, PARAGRAPH GG)*

GG. (REALLOCATED FROM T. 36, §5122, sub-§2, ¶FF) To the extent included in the taxpayer's federal adjusted gross income, the recovery of a portion of a federal standard deduction claimed in a prior year for which the taxpayer was not allowed under this Part to reduce federal adjusted gross income or Maine adjusted gross income for that year; [ 2011 , c . 380 , Pt . O , §6 (AMD) . ]

HH. To the extent included in federal adjusted gross income, annuity payments made to the survivor of a deceased member of the military who died as the result of service in active or reserve components of the United States Army, Navy, Air Force, Marines or Coast Guard under a survivor benefit plan or

reserve component survivor benefit plan pursuant to 10 United States Code, Chapter 73 reduced by any amount claimed as a modification under paragraph M or M-1; [2013, c. 331, Pt. C, §32 (AMD).]

*(Paragraph HH as enacted by PL 2011, c. 454, §9 is REALLOCATED TO TITLE 36, SECTION 5122, SUBSECTION 2, PARAGRAPH JJ)*

II. For taxable years beginning on or after January 1, 2012, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2011 or 2012 for which an addition was required under subsection 1, paragraph FF, subparagraph (2) for the taxable year beginning in 2011 or 2012.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph FF, subparagraph (2) related to property placed in service outside the State and the subtraction modifications allowed pursuant to this paragraph.

The total amount of the subtraction modification claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph FF, subparagraph (2) for the same property; [2013, c. 424, Pt. A, §26 (RPR).]

JJ. (REALLOCATED FROM T. 36, §5122, sub-§2, ¶HH) To the extent included in federal adjusted gross income, an amount equal to the distribution from a private venture capital fund of the refundable portion of the credit allowed under section 5216-B; [2013, c. 368, Pt. TT, §5 (AMD).]

KK. To the extent included in federal adjusted gross income, an amount equal to the refundable portion of the income tax credit under the Maine New Markets Capital Investment Program under Title 10, section 1100-Z; [2013, c. 368, Pt. TT, §6 (AMD).]

LL. To the extent included in federal adjusted gross income and to the extent otherwise subject to Maine income tax, an amount equal to military compensation earned during the taxable year for service performed outside of this State pursuant to written military orders:

(1) For active duty service in the active components of the United States Army, Navy, Air Force, Marines or Coast Guard by a service member whose permanent duty station during such service is located outside of this State; and

(2) For active duty service in the active or reserve components of the United States Army, Navy, Air Force, Marines or Coast Guard or in the Maine National Guard by a service member in support of a federal operational mission or a declared state or federal disaster response when the orders are either at federal direction or at the direction of the Governor of this State; and [2013, c. 588, Pt. A, §47 (AFF); 2013, c. 588, Pt. A, §46 (RPR).]

MM. For taxable years beginning on or after January 1, 2014, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2013 for which an addition was required under subsection 1, paragraph HH, subparagraph (2) for the taxable year beginning in 2013.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph HH, subparagraph (2) and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph HH, subparagraph (2) for the same property.  
[ 2013, c. 368, Pt. TT, §8 (NEW). ]

[ 2013, c. 525, §14 (AMD); 2013, c. 546, §§13, 14 (AMD); 2013, c. 588, Pt. A, §46 (AMD); 2013, c. 588, Pt. A, §47 (AFF) . ]

**3. Fiduciary adjustment.** There shall be added to or subtracted from federal adjusted gross income, as the case may be, the taxpayer's share of the fiduciary adjustment determined under section 5164.

[ 1969, c. 154, §F1 (NEW) . ]

**4. Cross reference.** For modifications required to be made by a partner relating to items of income, gain, loss or deductions of a partnership, see chapter 815.

[ 1969, c. 154, §F1 (NEW) . ]

#### SECTION HISTORY

P&SL 1969, c. 154, §F1 (NEW). 1977, c. 686, §9 (AMD). 1981, c. 463, §C2 (AMD). 1981, c. 706, §§33-35 (AMD). 1983, c. 519, §25 (AMD). 1983, c. 798, (AMD). 1983, c. 828, §22 (AMD). 1983, c. 855, §§15-17 (AMD). 1985, c. 344, §97 (AMD). 1985, c. 506, §A78 (AMD). 1985, c. 737, §A102 (AMD). 1987, c. 504, §§9,10 (AMD). 1987, c. 739, §§44-48 (AMD). 1987, c. 772, §36 (AMD). 1989, c. 502, §A136 (AMD). 1989, c. 508, §§16-18 (AMD). 1989, c. 556, §§B7,B10 (AMD). 1989, c. 880, §§G1-4 (AMD). RR 1991, c. 2, §§136-138 (COR). 1991, c. 528, §§N5,7 (AMD). 1991, c. 528, §§N6,8,RRR (AFF). 1991, c. 591, §§N5,7 (AMD). 1991, c. 591, §§N6,8 (AFF). 1995, c. 368, §§GGG1-3 (AMD). 1995, c. 639, §§15-17 (AMD). 1995, c. 641, §§1-3 (AMD). 1995, c. 641, §7 (AFF). RR 1997, c. 2, §61 (AFF). RR 1997, c. 2, §§58-60 (COR). 1997, c. 127, §2 (AMD). 1997, c. 557, §§B4-6 (AMD). 1997, c. 557, §G1 (AFF). 1997, c. 732, §§5-7 (AMD). 1997, c. 746, §§1-6 (AMD). 1997, c. 746, §24 (AFF). 1999, c. 414, §40 (AMD). 1999, c. 414, §57 (AFF). 1999, c. 520, §§2-4 (AMD). 1999, c. 520, §5 (AFF). 1999, c. 521, §§C3-6 (AMD). 1999, c. 521, §C9 (AFF). 1999, c. 708, §§34-36 (AMD). 1999, c. 731, §§S1-3,X1-3 (AMD). 1999, c. 731, §§S4,X4,5 (AFF). 1999, c. 790, §A49 (AMD). 2001, c. 177, §§1,2 (AMD). 2001, c. 358, §§CC1-3 (AMD). 2001, c. 358, §CC4 (AFF). 2001, c. 396, §34 (AMD). 2001, c. 396, §50 (AFF). 2001, c. 439, §KK1 (AMD). 2001, c. 439, §KK2 (AFF). 2001, c. 559, §§J1,2,GG8- 12 (AMD). 2001, c. 559, §GG26 (AFF). 2001, c. 583, §15 (AMD). 2001, c. 679, §§3,4 (AMD). 2001, c. 679, §6 (AFF). 2001, c. 700, §§3,4 (AMD). 2001, c. 700, §10 (AFF). 2001, c. 714, §§AA2-4 (AMD). RR 2003, c. 1, §§37,38 (COR). RR 2003, c. 2, §117 (COR). 2003, c. 20, §§EE1,2,II1, 2 (AMD). 2003, c. 390, §§27-33 (AMD). 2003, c. 390, §53 (AFF). 2003, c. 391, §5 (AMD). 2003, c. 451, §§E6,II1,2, KK1 (AMD). 2003, c. 479, §§2,3 (AMD). 2003, c. 588, §§14,15 (AMD). 2003, c. 688, §§A40,41 (AMD). 2003, c. 705, §§8-12 (AMD). 2003, c. 705, §14 (AFF). 2005, c. 12, §§L1,P2-4 (AMD). 2005, c. 12, §P10 (AFF). 2005, c. 218, §§51-53 (AMD). 2005, c. 416, §§1-3 (AMD). 2005, c. 519, §§CC1,LLL1-3 ,NN (AMD). 2005, c. 519, §§LLL4,NNN3 (AFF). 2005, c. 622, §§26-30 (AMD). 2005, c. 622, §33 (AFF). 2005, c. 644, §§5-7 (AMD). RR 2007, c. 2, §§22-24 (COR). 2007, c. 58, §3 (REV). 2007, c. 240, Pt. CCC, §2 (AMD). 2007, c. 240, Pt. CCC, §4 (AFF). 2007, c. 437, §§15-17 (AMD). 2007, c. 437, §22 (AFF). 2007, c. 466, Pt. A, §§65-69 (AMD). 2007, c. 466, Pt. A, §70 (AFF).

2007, c. 539, Pt. CCC, §§2-8 (AMD). 2007, c. 689, §§1-3 (AMD). 2007, c. 689, §4 (AFF). RR 2009, c. 1, §§26-28 (COR). RR 2009, c. 2, §§109-113 (COR). 2009, c. 213, Pt. BBBB, §§2-8 (AMD). 2009, c. 213, Pt. BBBB, §17 (AFF). 2009, c. 213, Pt. ZZZ, §§1-5 (AMD). 2009, c. 434, §§64-69 (AMD). 2009, c. 434, §84 (AFF). 2009, c. 496, §§21, 22 (AMD). 2009, c. 553, Pt. B, §1 (AMD). 2009, c. 553, Pt. B, §5 (AFF). 2009, c. 625, §12 (AMD). 2009, c. 625, §15 (AFF). RR 2011, c. 1, §§54-56 (COR). 2011, c. 90, Pt. H, §§1-3 (AMD). 2011, c. 90, Pt. H, §8 (AFF). 2011, c. 138, §§1-3 (AMD). 2011, c. 138, §4 (AFF). 2011, c. 240, §§30, 31 (AMD). 2011, c. 380, Pt. O, §§2-8 (AMD). 2011, c. 454, §9 (AMD). 2011, c. 548, §24 (AMD). 2011, c. 548, §36 (AFF). 2011, c. 644, §§13-19 (AMD). 2011, c. 644, §§32, 33 (AFF). 2011, c. 657, Pt. M, §1 (AMD). 2011, c. 657, Pt. M, §2 (AFF). 2011, c. 657, Pt. R, §§1, 2 (AMD). 2011, c. 657, Pt. R, §3 (AFF). 2011, c. 657, Pt. W, §§5, 7 (REV). RR 2013, c. 1, §52 (COR). 2013, c. 331, Pt. A, §4 (AMD). 2013, c. 331, Pt. A, §5 (AFF). 2013, c. 331, Pt. C, §§32, 33 (AMD). 2013, c. 331, Pt. C, §40 (AFF). 2013, c. 368, Pt. TT, §§2-8 (AMD). 2013, c. 405, Pt. A, §23 (REV). 2013, c. 424, Pt. A, §26 (AMD). 2013, c. 525, §14 (AMD). 2013, c. 546, §§13, 14 (AMD). 2013, c. 588, Pt. A, §46 (AMD). 2013, c. 588, Pt. A, §47 (AFF).

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